

in the circumstances to avoid or minimize harm to historic properties.

(b) Waiver under § 78.3(a) shall not exceed the period of time during which the emergency circumstances necessitating the waiver exist.

(c) In no event shall a Federal Agency Head delay an emergency action necessary to the preservation of human life or property for the purpose of complying with the requirements in section 110 of the Act.

§ 78.4 Federal Agency notice.

(a) Federal Agency Heads making use of the waiver authority shall, within 12 days of the effective date of the waiver, notify the Secretary of the Interior, in writing, identifying:

(1) The major natural disaster or imminent threat to the national security necessitating the waiver and the emergency action taken;

(2) The period of effect of the waiver;

(3) Which provisions of section 110 have been waived;

(4) The geographic area to which the waiver applies; and

(5) The measures and procedures used to avoid or minimize harm to historic properties under the conditions necessitating the waiver.

(b) Information copies of the notice under § 78.4(a) shall be forwarded by the Federal Agency Head to the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer.

§ 78.5 Review by the Secretary of the Interior.

(a) If the Secretary considers that all or part of the agency's decision as outlined under § 78.4(a) is inconsistent with the intent of the Act or these regulations for use of the waiver under extraordinary circumstances, the Secretary shall notify the Agency Head and the Director of the Office of Management and Budget within 5 days of receipt of the Federal Agency notice under § 78.4(a) of termination of the waiver, or make appropriate recommendations for modifications of the waiver's use. Termination of a waiver by the Secretary is final.

(b) If the waiver is still in effect at the time the Federal Agency Head receives recommendations from the Sec-

retary, the Agency Head shall consider the recommendations and any comments received from the Advisory Council and the State Historic Preservation Officer before deciding whether to continue, withdraw, or modify the waiver. The Federal Agency Head shall respond to recommendations received from the Secretary either accepting or rejecting those recommendations, and, where recommendations are rejected, explaining the reasons for such a decision. Information copies of such response shall be forwarded by the Federal Agency Head to the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer.

(c) If the waiver is no longer in effect at the time the Federal Agency Head receives recommendations from the Secretary or comments from the Advisory Council or the State Historic Preservation Officer, the Federal Agency Head should consider such recommendations and comments in similar future emergencies.

PART 79—CURATION OF FEDERALLY-OWNED AND ADMINISTERED ARCHAEOLOGICAL COLLECTIONS

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